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COMMITTEE ON THE RIGHTS OF THE CHILD

Eighteenth session

SUMMARY RECORD OF THE 469th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 2 June 1998, at 10 a.m.

Chairperson: Miss MASON

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The meeting was called to order at 10 a.m.

CONSIDERATION OF REPORTS OF STATES PARTIES (agenda item 4) (continued)

Initial report of Luxembourg (CRC/C/41/Add.2; CRC/C/Q/LUX/1; HRI/CORE/1/Add.10; Written replies of the Government of the Grand Duchy of Luxembourg to the questions raised by the Committee on the Rights of the Child in the list of issues (document without symbol, distributed at the meeting))

1. The CHAIRPERSON welcomed the delegation of Luxembourg and invited it to introduce the initial report of Luxembourg.

2. At the invitation of the Chairperson, Mr. Duhr, Mr. Majerus, Mr. Bewer, Mr. Biever, Mr. Weber and Mrs. Andrich-Duval took places at the Committee table.

3. Mr. MAJERUS (Luxembourg) said that producing the initial report had provided an opportunity to take stock of Luxembourg's policy on children's rights. In a very favourable economic and social setting, Luxembourg had created an environment that lent itself to the well-being of children and their families. The country had not been directly affected by war since 1945. The great majority of families were very well housed. An extensive network of doctors' surgeries and medical institutions guaranteed citizens high-quality medical services, most of the costs of which were reimbursed by health insurance schemes. Compared with neighbouring countries, the unemployment rate was not high and strict legislation offered workers a high degree of security at the workplace, while specific laws governed working conditions for minors and pregnant women. In a multicultural setting, Luxembourg had developed a very successful school system based on pupils' ability to speak three languages and a concern to ensure that they could easily enter institutions of higher learning in neighbouring countries. Over the past 20 years the public authorities had revised their town planning policy, promoting cities better suited to the specific needs of families, children and elderly people. By tradition Luxembourg had a rich community life (Scout movements, sporting associations, orchestras, choirs, voluntary civil-defence brigades) which offered children and young people creative leisure pursuits and supplemented their upbringing at home and in school. Despite a very high proportion of foreigners, the country experienced no overt racism or xenophobia.

4. He outlined the strong points noted as the initial report was being drafted. Since 1985, the Government had greatly improved the family allowance system. A one-child family currently received the equivalent of 120 dollars; for two children the amount was over 300 dollars, and for three children it was 585 dollars. The National Family Allowance Fund paid the parents of school-age children an annual "back-to-school" allowance. The education (child-rearing) allowance, intended primarily for parents of very young children who decided to give up working full-time, was equivalent to 450 dollars per month. There were also a variety of benefits associated with the birth of a child. For roughly 30 years, successive Governments had worked to improve the lot of handicapped children and their families. As in other areas of social work, the Government cooperated closely with many

non-governmental organizations, helping to finance their activities with generous subsidies. Its support for children placed in care was an especially important recent development. Almost 1 per cent of minors were separated from their original families, in most cases by decision of the juvenile court. Over the past 30 years, placement conditions had improved markedly.

5. There were, nevertheless, still some concerns that the Government had to address as regards the promotion of children's rights. As in other countries, the family was in crisis. More than a third of all family groupings broke up. Over the past 10 years or so, placement and therapeutic services had come face-to-face with the scourge of child sexual exploitation. It was said that between 10 and 15 per cent of children would suffer sexual abuse at least once during their lives; most victims were female, but the data might be skewed by the fact that sexual violence against boys and men lay under a particularly powerful taboo. The fact that the country was so small made for th greater protection and higher risks in that area.

6. Some media (television, computers and interactive games) had a disturbing influence on children. Many young people no longer hesitated to engage in very violent behaviour. The violence might be gratuitous but might also be related to drug addiction, because despite considerable efforts at prevention, many young people used drugs. Surveys conducted in Luxembourg showed that alcohol, tobacco and drug abuse was still the greatest danger to which young people were exposed.

7. He emphasized that the traditional assets of the Luxembourg school system were rather unfortunate handicaps than real opportunities, and the ministry concerned, in close collaboration with the communes and parent/teacher associations, was designing pilot projects to rectify the situation. At present the country had neither a prison for minors nor a children's psychiatric hospital. The Luxembourg Penitentiary Centre had thus been constrained to take in more and more minors although it had none of the appropriate facilities for affording them suitable social, tutelary, educational and therapeutic care.

8. Ratification of the Convention in 1993 had made some political leaders, most non-governmental organizations concerned with children, many parents, and professionals working with children and young people aware of the real situation as regards children's rights. The people of Luxembourg were used to the idea of children receiving special protection, but the notion that they should play an active part in society was novel to them. Priority was being given to the draft law on children's rights and social protection drafted in 1994, which sought to promote children's rights and set up an ombudsman-type institution. It also contained a number of provisions supplementing current social security institutions. It made the Ministries of the Family and Youth responsible for seeing to the creation of consultation and mediation facilities. One section was more specifically devoted to assistance for children placed outside the family environment (mandatory appraisal of all applications to place a child in care, either by the competent courts or by qualified independent agents, regular review of placement arrangements, production of an annual list of children placed outside their family environments, a requirement that children placed or awaiting placement in care should be given a hearing once they reached the age of six on any decision concerning them, and appropriate handling of complaints received from children in care).

9. A number of the plans mentioned in the initial report had come to fruition thanks to close collaboration between public and private services. The Government also encouraged initiatives originating with non-governmental organizations; it welcomed the establishment of a national conference of NGOs, concerned with children's rights, and action by the National Association of Educational Communities, the Red Cross, Caritas and UNICEF. In 1997, following the Stockholm World Congress against Commercial Sexual Exploitation of Children, the Government and NGOs had together devised courses of action aimed at prevention and at providing assistance to victims, and the staff at counselling and psychotherapy services had been augmented. The Ministry of the Family was working in particular on continuous training and supervision for therapists offering services to either the victims or the perpetrators of sex offences. A working group had been set up to bring the Penal Code into line with what was now known about the sexual exploitation of children. Current legislation on legal protection for young people stipulated that when a child was placed in institutional care, parental rights automatically devolved on those in charge of the receiving institution. The binding nature of that provision had been challenged in a motion in the Chamber of Deputies. In recent months, a plan to build a secure unit for minors had been added to the Government's list of priority projects.

10. Producing the initial report had had a very interesting multiplier effect. Over 60 professionals had been associated to different degrees with the documentation and drafting, and 125 children and young people aged between 6 and 18 had contributed their personal views. The report, illustrated and fleshed out by testimony from young people, had been published in July 1996 and distributed free of charge on demand.

11. Mrs. SARDENBERG congratulated the Luxembourg Government on a very thorough initial report. She regretted the unevenness of the document, which contained a great deal of factual information on some topics but little discussion of the specific situations in which children found themselves.

12. She would like to know whether the delay between the signature (1990) and ratification (1994) of the Convention was due to slow national procedures or resistance in certain parts of the Government. She would also like to know what impact the press conference given when the report came out had had. She was pleased that the preparation of the report had had a positive effect on the application of the Convention in Luxembourg and wondered whether the Government intended to distribute the Committee's concluding observations and the summary records of the meetings at which the initial report was discussed. Lastly, she asked what government authority was responsible for enforcing the Convention and what specific mandate that authority, if any, had.

13. Mr. RABAH asked whether the Luxembourg Government intended to withdraw its reservations to the Convention any time soon. He would like to know exactly what role NGOs had played in the preparation of the report. Was there any mechanism for coordinating the activities of the various bodies responsible for protecting children's rights, and if so, what budget did it have?

14. Mrs. PALME asked for more details about the draft law on the promotion of children's rights and social protection, and on its practical application. She would like to know whether Luxembourg had drawn up a national plan of

action for implementing the Declaration and Programme of Action adopted at the close of the World Congress against Commercial Sexual Exploitation of Children held in Stockholm in August 1996.

15. Mr. KOLOSOV observed that in its replies, the Luxembourg Government said that it did not intend to review its reservations "at this stage". Did that mean there was a possibility that they might be reviewed in the near future? He did not, in fact, believe them to be necessary, for nothing in the Convention was inconsistent with the measures that Luxembourg wished to keep in place. Noting that the Convention could be applied directly under Luxembourg law, he asked how the Government's interpretations of the Convention in its reservations related to the interpretation of the Convention by the judiciary.

16. Mrs. MBOI asked whether professionals working with children, including psychologists and social workers, were aware of the provisions of the Convention and whether they were sufficiently trained to be able to promote and protect children's rights effectively.

17. Mrs. OUEDRAOGO asked to what extent the general public and, in particular, children were aware of the Convention. What use did children make of the rights it set forth? What were parents' attitudes, for example, at home and at school, towards the provisions and principles of the Convention? She would like some additional information on the Young People's Legal and Social Assistance Service. Lastly, she asked how the Youth Parliament mentioned in the report functioned. How were its members recruited, and were there any links between it and the national Parliament?

18. Mrs. KARP asked for more details of the machinery gathering data on children. Could the existing system provide indicators showing how and in what circumstances children's rights were exercised or violated?

19. Four years had elapsed since the Convention had been ratified, but none of the draft laws to bring domestic legislation into line with it had yet been passed. What was the reason? When would the bills be passed? She, too, felt that the reservations entered by Luxembourg were neither necessary nor justified if the best interests of the child were respected. Lastly, did the authorities intend to increase the proportion of gross national product devoted to international aid?

20. The CHAIRPERSON noted that there was a proposal to establish an ad hoc committee on children's rights comprising six members designated by the Chamber of Deputies. She wondered whether the committee would have the necessary autonomy to protect and promote children's rights impartially and effectively.

21. Mr. DUHE (Luxembourg) said that after signing the Convention, Luxembourg had studied it minutely to determine whether there were any incompatibilities with national legislation. The fact that it had taken three years to complete the examination and ratify the Convention officially must be attributed to the general slowness of the legislative process in Luxembourg, with only 60 members of parliament to consider a body of laws equivalent to that found in its European neighbours.

22. It was unusual for Luxembourg to enter reservations to international agreements. Nevertheless, the reservations were perfectly valid because they ran counter neither to the letter nor to the spirit of the Convention. What was more, they had avoided some possible incompatibilities between the Convention and domestic law. Luxembourg would decide in the light of the circumstances whether it was appropriate to withdraw its reservations. He saw no contradiction in the fact that the Convention could be interpreted both by the Government, in the reservations it had formulated upon ratification, and by the judiciary. The constitutional court would rule in the event of any conflict in interpretation relating to the compatibility of a Luxembourg law with the Convention (which was of the same status as the Constitution). In any event, there had not yet been any conflict between Luxembourg legislation and the Convention.

23. Replying to Mrs. Karp, he said that the Government had committed itself to raising the proportion of gross national product going to development assistance to 0.7 per cent by the end of 1999.

24. Mr. MAJERUS (Luxembourg) said that Luxembourg had thought it was important to set up an ombudsman-type structure that was truly independent both of the political authorities and of the media and the public at large. The sponsors of the bill to set up such an institution, feeling that it would be awkward to assign such a job to just one person, had thought it better to set up a six-member committee which would be a stronger, more independent body. It would not be political. The members would be designated by the Chamber of Deputies but appointed by the Head of State so as to guarantee their independence of the Government. There was a strong chance that the bill would have been passed by the Chamber of Deputies by the time elections were held in 1999.

25. Luxembourg had entered reservations in those cases where it felt that national legislation afforded better protection for the higher interests of the child. As an illustration he mentioned a law dating from 1978 allowing women to give birth anonymously, the objective being to reduce the number of backstreet abortions and offer a choice to women who decided not to keep their children. Since that solution was at odds with a child's right to know its origins under article 7 of the Convention, Luxembourg had had to enter a reservation.

26. The authors of the report had opted to produce and publish as thorough a document as possible, but he acknowledged it might have been preferable to adopt a less weighty format. Three thousand copies of the report had been distributed free of charge, and the report had been introduced by the Minister for the Family at a press conference. Some NGOs had chosen not to help draft the report so that they could criticize it completely independently; others had collaborated on the report, but at a distance.

27. Until recently, policy on children's rights had not been sufficiently well coordinated. Ratifying the Convention had given rise to greater collaboration between the Ministry for the Family and the Ministry for Youth. The bill on the promotion of children's rights and social protection, if adopted, would enable the authorities to better coordinate social policy on children using an existing public service, the Child Guidance Service, which would be responsible for better coordination of NGO activities since NGOs did most of the social work in Luxembourg.

28. The Stockholm Congress and the Dutroux affair in Belgium had left the population keenly aware of the problems of child sexual exploitation, and steps had been taken to give professionals working in that area more training. According to the authorities' information, no Luxembourg agency was directly involved in sexual tourism. Prostitution by minors from Eastern European countries was a problem, however. The police had little information on the subject because such minors seldom lived in Luxembourg: they crossed the border in the evening and returned home during the night.

29. The Stockholm Congress had also shown how important it was to increase international cooperation between police and judicial authorities. The Luxembourg Penal Code did not at present explicitly mention the commercial sexual exploitation of children, or deal appropriately with the possession of pornographic material involving children. The Minister of Justice had therefore asked a working group to consider the matter, and Luxembourg was in favour of drawing up Community-wide legislation on the subject.

30. Mrs. ANDRICH-DUVAL (Luxembourg) said that the authorities intended to gather the information available on children more systematically. As regards protection of the child from conception to birth, not only was there an extensive network of allowances and material assistance but preventive measures existed in the medical and psycho-social fields. There were also help centres for women in distress, particularly unmarried mothers, and open-access support structures.

31. Mr. MAJERUS (Luxembourg) said that the Convention was winning public acceptance slowly but surely. He cited a number of initiatives by federations such as the gardeners and the firemen and by organizations such as Caritas and the Luxembourg Red Cross. Posters on the broad principles of the Convention and on children's sexual and emotional rights had also been produced. A bilingual pamphlet on sexual abuse (French/German) had been produced in 1997. There was still resistance to the dissemination of the Convention, notably among teachers, who were alarmed to see their tasks increase. The Ministry of National Education had therefore organized courses on the Convention as part of their continuous training. Magistrates and doctors, who were perhaps even more reluctant than teachers, had also been specifically targeted. French experts had organized training seminars on child sexual exploitation for doctors and magistrates. In 1998 those same experts would arrange seminars for social workers so as to encourage them to report suspected cases of mistreatment.

32. Upon ratification of the Convention, the law governing the right of the child to be heard had been amended, making such hearings mandatory. The Convention had been invoked before the courts in a case concerning the transfer of a player between two sports clubs.

33. Mr. BEWER (Luxembourg) said that the Young People's Legal and Social Assistance Service planned to republish in 1999, with assistance from the Ministry for the Family, the brochure brought out in 1994 on the rights and duties of young people. Secondary school children would be urged to supplement the questions addressed in the brochure and to illustrate it. Requests to the Service for clarification had been growing constantly since 1992. The bill to set up a mediation body had been discussed in the Youth Parliament in 1997, and the parliament's comments had been taken into

account. A year previously the Ministry for Youth had drawn up policy guidelines and produced action and participation plans covering, among other things, a travelling exhibition in 1998 on participation, the involvement of young people in the development of community plans, and youth training up to the end of 1998.

34. The Service had been commissioned by the Ministry of Youth to produce a draft bill on freedom of association for young people. It had taken up the question of transfers of young people between sports clubs, which seemed to infringe the principles of the Convention. It had brought the cases to the attention of the Ministry for Youth which, having analysed them, had given instructions to the people drafting the bill on sport so as to ensure that the bill contained provisions safeguarding the freedom of the child.

Definition of the child and general principles

35. Mr. FULCI congratulated the delegation on the quality of the report it had introduced. He was sorry that the authors had not always thoroughly analysed the very detailed information and statistics provided. The Committee had often recommended the appointment of an independent mediator accountable to Parliament to monitor the implementation of children's rights, and he would like more information on the ad hoc committee on children's rights which the Luxembourg Government had set up, including its composition, powers, independence, availability and mode of operation. In the light of the discussions on the pros and cons of appointing a mediator, had the Government's decision to set up such a committee proved wise? And in the light of the committee's experience, might it have been preferable in certain respects - and if so, which? - to appoint a mediator?

36. Mrs. SARDENBERG noted the delegation's statement that Luxembourg might withdraw its reservations to the Convention, and urged the delegation to press the Government to give effect to its intention, as recommended at the end of the World Conference on Human Rights held in Vienna in June 1993. She understood that non-governmental organizations in the country had a difficult role to play within civil society: in her view, the Government should be urged to guarantee them both the greatest possible independence and the financing they needed to go about their activities. She wanted to know what action had been taken to ensure that the provisions of the Convention were known to one and all, given that the law endorsing the Convention existed in French only and had not been translated into either German or Luxembourgish, both languages currently spoken in the country. Lastly, on the subject of general measures of implementation, she asked how the implementation of the Convention was coordinated at different levels of Government and what institution was primarily responsible.

37. On the definition of the child, she asked for clarification of the distinction drawn between criminal responsibility among children aged 18 and children aged 16. Could children under 16 be brought before the courts? On the subject of general principles, she wondered whether all the grounds for discrimination covered in the Convention had been taken into account in the review of the legislation, and what attitude the authorities took towards acts of xenophobia in particular. Lastly she emphasized the importance of training for teachers, which should not be an additional burden on teachers but must be an essential part of the curriculum at teaching institutions.

38. Mrs. PALME also emphasized how important it was for Luxembourg to withdraw its reservations to the Convention. She shared Mrs. Sardenberg's concerns about the age for criminal responsibility, particularly in the new European setting where a large number of young people from former socialist countries had been left without resources and tended to drift into prostitution, among other things. She asked whether the Luxembourg Government was still taking concrete action to give effect to the recommendations made at the Stockholm World Congress against Commercial Sexual Exploitation of Children. She also asked what proportion of the Luxembourg budget was devoted to development cooperation to benefit children.

39. Mrs. KARP agreed with Mrs. Sardenberg and Mrs. Palme about the need for Luxembourg to withdraw its reservations to the Convention and emphasized that the authorities could take action, even before behaviour patterns in society had clearly changed. She, too, stressed the need to make the provisions of the Convention more widely known among teachers and professionals working with children as part of a structured, systematic training given to all concerned.

40. She understood that a child aged under 18 could not lodge a complaint with the judicial authorities without its parents' or legal guardian's consent. She wondered whether that provision was not inconsistent with respect for the right of minors to describe the problems they personally confronted. Similarly, if a child could not receive medical care without its parents' consent except in cases of extreme emergency, how could teenagers' right to a private life be respected when they had to cope with problems specific to people of their age, such as their sex lives and drug addiction?

41. On general principles, she asked whether the best interests of the child and the child's right to voice its opinions were applied together, for example at school and before the courts.

42. Mr. KOLOSOV remarked that paragraphs 110 and 866 of the initial report, on non-discrimination and racism, mentioned a draft law to supplement the penal code which would punish revisionism. He asked what the Luxembourg Government understood by revisionism and what importance it attached to the phenomenon.

43. Mrs. MOKHUANE felt that the law whereby a child could receive medical care without its parents' consent only if its life was in danger was entirely inconsistent with the spirit of the Convention. She also wondered whether children who, with their parents' consent, took part in performances, often after 11 p.m., might not have problems at school. Since, moreover, the marriageable age was 18 for boys and 16 for girls, was there a kind of sex discrimination among young people in that sense?

44. Mr. DUHR (Luxembourg) noted the general feeling among the Committee that the Luxembourg Government needed to withdraw its reservations to the Convention. His Government's intention was not, however, to limit the exercise of children's rights but rather to uphold it. His delegation would transmit the Committee's comments on the matter to the Government. The summary records of the meetings at which the initial report of Luxembourg had been discussed would also be duly transmitted to the parliamentary committee on children's matters so that it could take note of them and ensure that the Committee's recommendations were followed up.

45. Non-governmental organizations were largely financed by the Government itself, but acted independently. Most development aid funds went to non-governmental organizations, and the rest to the World Health Organization (to support children's vaccination campaigns) and the International Labour Organization (to support campaigns against child labour). It was true that the official language in Luxembourg was French, and that the Convention had not yet been distributed in German and Luxembourgish, but action had already been taken to address that shortcoming. Lastly, the question of revisionism had been taken into account in the draft law supplementing the penal Code, so as to include among the crimes punishable under the Code all those identified by the Nuremberg Tribunal.

46. Mr. MAJERUS (Luxembourg) said that the ad hoc committee on children's rights was an independent, multidisciplinary body; the chairmen and members were paid in accordance with the time they devoted to committee work, and the committee itself was answerable to Parliament, to which it reported every year. The Government, in close collaboration with non-governmental organizations, had set up an extensive network of local consultation and mediation centres for children in distress. Available to children free of charge, the network was also a very important source of information on the status of children in difficulties within the country. On the coordination of policy on children, a Higher Council for the Family and Children had been in existence since 1950 and had a great deal of influence with the Government, but the overall coordination of policy on childhood was ultimately the responsibility of the Ministry of the Family, which maintained close contact with representatives of every commune in the country.

47. He acknowledged that, as Mrs. Karp had stressed, the information given to staff looking after children was not always adequate. It was in part for that reason that consultations had been undertaken to draw up a charter of institutionalized children's rights, so as to afford those children protection against the sexual abuse they might suffer.

48. The CHAIRPERSON said that the Luxembourg delegation would provide answers to the additional questions raised by Committee members on general measures of implementation, the definition of the child and general principles at the following meeting. She personally hoped that the delegation would give more detail on the reasons why the expressions "legitimate/natural" and "illegitimate" child were still used in Luxembourg legislation.

The meeting rose at 1 p.m.